

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

XCOAL ENERGY & RESOURCES, §  
Plaintiff, §  
v. § CIVIL ACTION NO. H-11-0645  
NEW YORK MARINE & GENERAL §  
INSURANCE COMPANY AND §  
SOUTHERN MARINE & AVIATION §  
UNDERWRITERS, INC., §  
Defendants, §

ORDER ADOPTING MAGISTRATE JUDGE'S  
MEMORANDUM AND RECOMMENDATION

Having reviewed the Magistrate Judge's Memorandum and Recommendation, the objections thereto, and the response to the objections, the court is of the opinion that said Memorandum and Recommendation should be adopted by this court.

It is, therefore, **ORDERED** that the Memorandum and Recommendation is hereby **ADOPTED** by this court.

The Clerk shall send copies of this Order to the respective parties.

**SIGNED** at Houston, Texas, this 26<sup>th</sup> day of March, 2013.

  
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SIM LAKE  
UNITED STATES DISTRICT JUDGE